

**United States Court of Appeals**  
**For the Eighth Circuit**

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No. 16-1612

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Valerie A. Walker

*Plaintiff - Appellant*

v. (5:14-cv-00268-BSM)

Arkansas Department of Correction; Wendy Kelley, Director; Toni Bradley,  
Warden; Dexter Payne, Warden

*Defendants - Appellees*

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Appeal from United States District Court  
for the Eastern District of Arkansas - Pine Bluff

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Submitted: October 5, 2016  
Filed: October 11, 2016  
[Unpublished]

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Before SMITH, BENTON, and SHEPHERD, Circuit Judges.

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PER CURIAM.

Valerie A. Walker appeals following an adverse jury verdict in her employment-discrimination and retaliation action. Having jurisdiction under 28 U.S.C. § 1291, this court affirms.

This court construes Walker's pro se appeal as challenging the district court's<sup>1</sup> rulings dismissing several of her claims. *See Jackson v. Nixon*, 747 F.3d 537, 544 (8th Cir. 2014) (appellate court construes pro se complaint liberally); *Greer v. St. Louis Reg'l Med. Ctr.*, 258 F.3d 843, 846 (8th Cir. 2001) (notice of appeal that specifies final judgment is understood to raise for review all previous rulings). Walker's ADA discrimination claims were barred by sovereign immunity. *See Bd. of Tr. of Univ. of Ala. v. Garrett*, 531 U.S. 356, 374 (2001) (Title I of ADA, which prohibits workplace disability discrimination, does not abrogate sovereign immunity). Walker sought reinstatement, but did not provide sufficient evidence indicating that she was perceived as disabled under the ADA. *See* 42 U.S.C. § 12102(2) (disability is, inter alia, being regarded as having physical impairment that substantially limits one or more major life activities); *Kozisek v. County of Seward, Neb.*, 539 F.3d 930, 935 (8th Cir. 2008) (employer regards employee as disabled when it mistakenly believes employee's physical ailments substantially limit his ability to work); *Kincaid v. City of Omaha*, 378 F.3d 799, 804 (8th Cir. 2004) (to establish prima facie claim of disability discrimination, plaintiff must show he is disabled within meaning of ADA). Walker's claims under the Arkansas Civil Rights Act (ACRA) and 42 U.S.C. § 1981 are barred by sovereign immunity because none of the defendants were sued in their individual capacities. *See* Ark. Code Ann. § 16-123-104 (ACRA does not waive sovereign immunity); *Baker v. Chisom*, 501 F.3d 920, 923, 925 (8th Cir. 2007) (if complaint is silent as to capacity in which plaintiff is suing defendant, court will interpret complaint as asserting only official-capacity claims; official-capacity suits are treated as suits against official entity); *Singletary v. Mo. Dep't of Corr.*, 423 F.3d 886, 890 (8th Cir. 2005) (holding that state entities possess Eleventh Amendment immunity from § 1981 claims); *Alabama v. Pugh*, 438 U.S. 781, 782 (1978) (unless sovereign immunity is waived by state, suits against state and its board of corrections are barred by Eleventh Amendment, regardless of relief sought).

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<sup>1</sup>The Honorable Brian S. Miller, Chief Judge, United States District Court for the Eastern District of Arkansas.

This court is unable to address Walker's ADA retaliation claim and Title VII discrimination and retaliation claims, which proceeded to a jury trial because Walker has not provided a transcript, and will not address the claims she raises for the first time on appeal. *See* Fed. R. App. P. 10(b)(2) (if appellant argues that finding is contrary to evidence, appellant must include in record transcript of all relevant evidence); *Meroney v. Delta Int'l Mach. Corp.*, 18 F.3d 1436, 1437 (8th Cir. 1994) (lack of transcript prevented meaningful review of issues raised by appellant); *Juarez v. Minnesota*, 217 F.3d 1014, 1017 (8th Cir. 2000) (court of appeals will not entertain arguments raised for first time on appeal).

The judgment is affirmed.

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**United States Court of Appeals**  
***For The Eighth Circuit***  
Thomas F. Eagleton U.S. Courthouse  
111 South 10th Street, Room 24.329  
**St. Louis, Missouri 63102**

**Michael E. Gans**  
*Clerk of Court*

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October 11, 2016

Ms. Valerie A. Walker  
Apt. 4 C  
2102 Sidney Street  
White Hall, AR 71602

RE: 16-1612 Valerie Walker v. AR Dept. of Correction, et al

Dear Ms. Walker:

The court has issued an opinion in this case. Judgment has been entered in accordance with the opinion. The opinion will be released to the public at 10:00 a.m. today. Please hold the opinion in confidence until that time.

Please review [Federal Rules of Appellate Procedure](#) and the [Eighth Circuit Rules](#) on post-submission procedure to ensure that any contemplated filing is timely and in compliance with the rules. Note particularly that petitions for rehearing and petitions for rehearing en banc must be received in the clerk's office within 14 days of the date of the entry of judgment. Counsel-filed petitions must be filed electronically in CM/ECF. Paper copies are not required. No grace period for mailing is allowed, and the date of the postmark is irrelevant for pro-se-filed petitions. Any petition for rehearing or petition for rehearing en banc which is not received within the 14 day period for filing permitted by FRAP 40 may be denied as untimely.

Michael E. Gans  
Clerk of Court

CMD

Enclosure(s)

cc: Ms. Delena C. Hurst  
Mr. Jim McCormack  
Ms. Amber R. Schubert

District Court/Agency Case Number(s): 5:14-cv-00268-BSM



16-1612 Valerie Walker v. AR Dept. of Correction, et al "per curiam opinion filed" (5:14-cv-00268-BSM)

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### **Eighth Circuit Court of Appeals**

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The following transaction was filed on 10/11/2016

**Case Name:** Valerie Walker v. AR Dept. of Correction,  
et al

**Case Number:** [16-1612](#)

**Document(s):** [Document\(s\)](#)

#### **Docket Text:**

PER CURIAM OPINION FILED - THE COURT: Lavenski R. Smith, Duane Benton and Bobby E. Shepherd (UNPUBLISHED) [4457094] [16-1612] (Catherine Dolan)

#### **Notice will be electronically mailed to:**

Ms. Delena C. Hurst: delena.hurst@arkansasag.gov, agcivil@arkansasag.gov,  
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Mr. Jim McCormack, Clerk of Court: ared\_appeals@ared.uscourts.gov

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The following document(s) are associated with this transaction:

**Document Description:** Per Curiam Opinion filed

**Original Filename:** 161612U.pdf

**Electronic Document Stamp:**

[STAMP acecfStamp\_ID=1105112566 [Date=10/11/2016] [FileNumber=4457094-0]  
[3324d984f83b680d4bbffb63009f1da11faf81360c06384dbf540e0200fd590c1f2244fbf977a7e76  
4f49f5f9befb283b69615ef4d777b055d580e437d437760]]

**Document Description:** Counsel Opinion Letter

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/opt/ACECF/live/forms/cdolan\_161612\_4457094\_CounselOpinionLetters\_285.pdf

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[2e1bb6e326d81bff9ff1c5ec8ac8df79f24568cfbcc142b31cd5342f4c80a3d6bcf49c127ba202b360  
647b2671e52f37dc986318cb83c4ce6e7beae42d9efe97]]

**Recipients:**

- [Ms. Delena C. Hurst](#)
- [Mr. Jim McCormack, Clerk of Court](#)
- [Ms. Amber R. Schubert, Assistant Attorney General](#)
- [Ms. Valerie A. Walker](#)

The following information is for the use of court personnel:

**DOCKET ENTRY ID:** 4457094

**RELIEF(S) DOCKETED:**

not for publication

**DOCKET PART(S) ADDED:** 5653349, 5653350, 5653351